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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,224

09/29/2003

Jose M. Sosa

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EXAMINER

ASINOVSKY, OLGA

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSE M. SOSA
and
BILLY J. ELLIS

Application 10/674,224
Technology Center 1700

Mailed: August 28, 2008

Before DALE M. SHAW *Chief Appeals Administrator*.
SHAW, *Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on April 15, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the

examiner. The matters requiring attention prior to docketing are identified below:

37 CFR § 41.37 states in part:

(c)(1) The brief shall contain the following items under appropriate headings and in the order indicated in paragraphs (c)(1)(i) through (c)(1)(x) of this section, except that a brief filed by an appellant who is not represented by a registered practitioner need only substantially comply with paragraphs (c)(1)(i) through (c)(1)(iv) and (c)(1)(vii) through (c)(1)(x) of this section:

. . . .

(ii) *Related appeals and interferences.* A statement identifying by application, patent, appeal or interference number all other prior and pending appeals, interferences or judicial proceedings known to appellant, the appellant's legal representative, or assignee which may be related to, directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal. Copies of any decisions rendered by a court or the Board in any proceeding identified under this paragraph must be included in an appendix as required by paragraph (c)(1)(x) of this section.

(iii) *Status of claims.* A statement of the status of all claims in the proceeding (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

. . . .

(x) *Related proceeding appendix.* An appendix containing copies of decisions rendered by a court or the board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

An examination of the Image File Wrapper (IFW) reveals that Appeal Brief was filed on April 5, 2007. The Appeal Brief is deficient because the “Related appeals and interferences” section does not contain a statement regarding Serial No. 10/729,446,¹ in which a decision by the Board of Patent Appeals & Interferences (BPAI) was rendered on January 26, 2007. Also, a copy of said decision does not appear in the “Related proceedings appendix.” Correction is required.

In addition, the “Status of claims” section appearing on page 2 of the Appeal Brief is deficient because it does not contain a statement regarding the status of all claims in the proceeding and it does not identify the claims that are being appealed. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for notification to appellants to submit a substitute Appeal Brief which corrects the “Related appeals and interferences,” “Status of claims” and the “Related proceedings appendix” sections;
- 2) for consideration of the substitute Appeal Brief; and

¹ Application Serial No. 10/729,446, which was filed on December 5, 2003, is a continuation-in-part of the present application.

3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DMS:psb

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